ORIGINAL

CERTIFIED PROFESSIONAL GUARDIAN BOARD

Terese Marcoe, CPG No. 10009	)	**CPGB No. 2011-009A**
	)	**Agreement Regarding Discipline And Stipulated Findings**
Respondent	)	***Disciplinary Regulation 514***

The parties, Terese Marcoe (Ms. Marcoe) CPG No. 10009 and the Certified Professional Guardian Board (Board) enter into this Agreement Regarding Discipline and Stipulated Findings (Agreement) pursuant to the Board's Disciplinary Regulations for Certified Professional Guardians. Ms. Marcoe has committed violations of the Standards of Practice for Certified Professional Guardians, resulting in this disciplinary proceeding before the Board. This Agreement is a resolution of this disciplinary proceeding and shall become effective after all parties have signed the Agreement. The Agreement will be a part of the professional guardian record of Ms. Marcoe and will be a public record and subject to public access.

1. JURISDICTION

1.1 At all times relevant herein. Ms. Marcoe was a certified professional guardian (CPG) pursuant to GR 23, CPG No. 10009. Ms. Marcoe was one of the designated certified professional guardians of EthiCare with authority to make decisions on behalf of the agency.[1]

[1]Terese Marcoe has submitted a request to become inactive on March 10, 2011.

1.2 The Certified Professional Guardian Board is responsible for reviewing any allegation that a certified professional guardian or certified professional guardianship agency has violated an applicable statute, fiduciary duty, standard of practice, rule, or regulation. Pursuant to its Disciplinary Regulations, the Board may impose discipline, sanctions, costs and other remedies upon a finding of violation, or may recommend that the Washington Supreme Court impose discipline, sanctions and costs, when the recommendation is for suspension or decertification of the certified professional guardian or agency.

2. STATEMENT OF FACTS

2.1 On or about March 14, 2011, the Board opened a grievance, CPGB No. 2011-009, based on receipt of an order removing EthiCare, Inc. as the guardian in King County Case No. 07-4-03115-1 SEA. The order found that EthiCare failed to perform its duties as the guardian by allowing its Letters of Guardianship to expire on three separate occasions.

2.2 Each year, certified professional guardian agencies are required to file a disclosure that states who the designated certified professional guardians are for the agency. A designated certified professional guardian is a certified professional guardian who has final decision making authority regarding the incapacitated person or the incapacitated person's estate on behalf of the agency. Each agency must have at least two designated certified professional guardians. On July 31, 2008, July 31, 2009, and July 29, 2010, EthiCare's disclosure stated that Terese Marcoe and Julie Crawford[2] were the designated certified professional guardians on behalf of EthiCare.

2.3 On July 24, 2007, EthiCare was appointed as the guardian of the person and guardian of the estate in King County Case No. 07-4-03115-1 SEA. That same day, EthiCare obtained Letters of Guardianship which expired on December 20, 2008. The annual report on the case was due to be filed within 15 months of the anniversary date, but was not filed until April 28, 2009. For approximately

[2] Any action regarding Julie Crawford is being handled separately.

five months, between December 20, 2008 and May 14, 2009 (when the annual report was approved), EthiCare had no Letters of Guardianship.

2.4 The second annual report was filed on October 22, 2009, but no hearing was scheduled to approve the report until April 15, 2010. For approximately five months, between December 21, 2009 and May 17, 2010, EthiCare had no Letters of Guardianship.

2.5 On December 1, 2010, EthiCare filed its third annual report and petitioned to be discharged and have Julie Crawford become the successor guardian. The Department of Social and Health Services, Adult Protective Services filed an Order to Show Cause. The court appointed a Guardian ad Litem to investigate the allegations and the order on the final hearing was continued until February 28, 2011. EthiCare's Letters of Guardianship had expired on December 21, 2010.

2.6 Letters of guardianship are the record of the court's entrustment of care to a guardian. Guardians are required to obtain letters of guardianship prior to taking any actions in the guardianship.

3. VIOLATIONS OF THE STANDARDS OF PRACTICE

3.1 Based on the facts set forth in paragraphs 2.1 to 2.6, Ms. Marcoe's conduct constitutes grounds for discipline pursuant to Standards of Practice (SOP) 401.4, which provides in pertinent part:

> **SOP 401.4** The guardian shall not act outside of the authority granted by the court.

3.2 Based on the facts and violations set forth above, Ms. Marcoe's conduct constitutes grounds for discipline pursuant to General Rule (GR) 23(c)(2)(viii) and Disciplinary Regulation (DR) 503, which provide in pertinent part:

> **GR 23 Rule for Certifying Professional Guardians – Certified Professional Guardian Board**
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> . . .
>
> (2) Duties and Powers.
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> . . .
>
> (viii) Grievances and Discipline. The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, or regulation. The Board may impose sanctions upon a finding of violation. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.

DR 503 A professional guardian may be subject to disciplinary action for any of the following:

DR 503.1 Violation of or noncompliance with applicable statutes, court orders, court rules, or other authority.

DR 503.3 Failure to perform any duty one is obligated to perform as a professional guardian.

DR 503.4 Violation of the oath, duties, or standards of practice of a professional guardian.

4. AGGRAVATING AND MITIGATING FACTORS

Pursuant to DR 515.1.4, the Board may consider the existence of aggravating and mitigating factors in determining the sanctions to be imposed.

4.1 Aggravating Factors. Prior disciplinary action by the Board and substantial experience as a guardian.

4.2 Mitigating Factors. Absence of dishonesty or selfish motive, self-reported, lack of harm

5. PRIOR RECORD OF DISCIPLINE

Ms. Marcoe has a prior record of discipline with the Board in CPGB No. 2007-025.

6. DISCIPLINARY SANCTIONS AND REMEDIES

The Board imposes the following disciplinary sanctions and remedies on Ms. Marcoe for the conduct described in this Agreement. Pursuant to DR 515.1, any disciplinary sanction or remedy imposed by the Board on a certified guardian is a disciplinary sanction.

Letter of Admonishment: The Board hereby imposes a letter of admonishment on Ms. Marcoe. This Agreement constitutes the letter of admonishment and shall be placed in the Board's disciplinary files for Ms. Marcoe.

7. VIOLATION OF AGREEMENT

7.1 Failure to comply with the terms of this Agreement shall constitute additional grounds for discipline pursuant to DR 514.4. Failure to comply includes, but is not limited to, failing to have current letters of guardianship in any case in which any of Ms. Marcoe are the appointed guardian.

7.2 In the event of an alleged breach of this Agreement, the Board will issue a Complaint pursuant to its Disciplinary Regulations, providing notice and an opportunity for a hearing to the certified professional guardian agency and to the certified professional guardians alleged to be in breach of the ARD. If the Board finds that Suspension Pending Disciplinary Proceedings is warranted, it may proceed pursuant to Disciplinary Regulation 519.

7.3 This Agreement is binding as a statement of all known facts relating to the conduct of Ms. Marcoe but any additional existing acts may be proven in any subsequent disciplinary proceedings.

8. NOTICE

This Agreement shall be retained by the AOC in Ms. Marcoe's disciplinary file. This Agreement shall be open to public access and disclosure. Notice of the discipline imposed shall be sent to all superior courts pursuant to DR 514.3.2.

9. ENTIRE AGREEMENT

This Agreement comprises the entire agreement of the parties with respect to the matters covered herein, and no other agreement, statement, or promise made by any party which is not included herein shall be binding or valid. This Agreement may be modified or amended only by a written amendment signed by all parties.

10. SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision of this Agreement is illegal or invalid for any reason, the remainder of the Agreement will not be affected.

11. LAWS GOVERNING

This Agreement shall be governed by the laws of the State of Washington, and any question arising from the Agreement shall be construed or determined according to such law. This Agreement is a public record and is subject to public disclosure or release.

12. RIGHT TO COUNSEL

Ms. Marcoe acknowledges that she has the right to individual counsel for representation in this disciplinary matter, at her own expense, as set forth in Disciplinary Regulation 509.1.

13. PRESENTATION OF AGREEMENT TO THE BOARD

Ms. Marcoe understands that this Agreement is not binding unless and until it is approved and signed by the Board. If the Board rejects this Agreement, Ms. Marcoe waives any objection to the participation in the final determination of this matter of any Board member who heard the Agreement presentation. The Standards of Practice Committee reserves the right to withdraw this offer of settlement at any time prior to its presentation to the Board.

COPY RECEIVED, NOTICE OF PRESENTATION WAIVED:

Terese Marcoe, CPG No. 10009 — 11-1-11 Date
Individually

_____ _____ Date

Attorney for Ms. Marcoe
WSBA #_____

APPROVED AND ORDERED BY THE CERTIFIED PROFESSIONAL GUARDIAN BOARD THIS

1st DAY OF November, 2011.

Hon. ~~Chris Wickham~~ James W. Lawler
Chair, Certified Professional Guardian Board